

County of Loudoun
Department of Planning
MEMORANDUM

DATE: July 16, 2009
TO: Loudoun County Planning Commission
FROM: Nicole Steele, Project Manager
SUBJECT: July 16, 2009 Planning Commission Public Hearing
Heritage Baptist Church Expansion & Commuter Parking Lot,
SPEX 2008-0053 & SPEX 2008-0065

Background

As an update to the July 16, 2009 Staff Report, staff has updated the Conditions of Approval to incorporate revisions following further discussions with the applicant regarding hours of operation, construction activity, and bike racks, further discussions with Planning Commissioner's regarding stormwater management and the connector sidewalk as well as suggested revisions provided by Zoning for better enforcement. As requested at the Planning Commission briefing, the lease agreement for the connector sidewalk is also provided.

SUGGESTED MOTIONS

1. I move that the Planning Commission forward SPEX 2008-0053 & SPEX 2008-0065 – Heritage Baptist Church Expansion and Commuter Lot, to a worksession for further discussion.

OR,

2. I move that the Planning Commission forward SPEX 2008-0053 & SPEX 2008-0065 – Heritage Baptist Church Expansion and Commuter Lot, to the Board of Supervisors with a recommendation of Approval, subject to the Conditions of Approval dated July 16, 2009, and with the Findings contained within the July 16, 2009 Staff Report.

OR,

3. I move that the Planning Commission forward SPEX 2008-0053 & SPEX 2008-0065 – Heritage Baptist Church Expansion and Commuter Lot, to the Board of Supervisors with a recommendation of denial, based on the following Findings:

Attachments:

1. Revised Conditions of Approval dated July 16, 2009
2. Lease Agreement for Connector Sidewalk

**HERITAGE BAPTIST CHURCH EXPANSION & PARKING LOT
SPEX 2008-0053 & SPEX 2008-0065
CONDITIONS OF APPROVAL** *dated July 16, 2009*

1. Special Exception Plat. The proposed church and commuter parking lot shall be developed in substantial conformance with the Special Exception Plat (SPEX 2008-0053 & SPEX 2008-0063) prepared by Zicht & Associates, PLC, dated October 1, 2008, revised through May 28, 2009, as well as the Revised 1993 Loudoun County Zoning Ordinance. Approval of this application does not relieve the Property of any Zoning Ordinance, Codified Ordinance, or any other requirement.
2. Uses Permitted. Approval of these Special Exception (SPEX 2008-0053 & SPEX 2008-0063) applications grant approval for a church use and a commuter parking lot greater than 50 spaces, as defined by the Revised 1993 Loudoun County Zoning Ordinance, in the R-2 (Residential – 2) zoning district, on the subject property as depicted on the Plat.
3. Landscaping – Landscaping shall utilize native species for at least 80% of the planted material as described in the Facilities Standards Manual – Section 7.400 Landscape Plans (Table 10 & Table 11). The Applicant shall provide an enhanced Type 2 Buffer along the rear of both Properties with at least 2 canopy trees, 4 understory trees, 10 shrubs and 6 evergreen trees and a 6-foot board-on-board fence. All associated landscaping materials shall be maintained by the property owner or appropriate owners association to sustain the life of the planted material.
4. Sidewalk/Trail – The Applicant shall provide prior to first occupancy permit of the church expansion, at a minimum, a 5-foot sidewalk along the frontage of Shellhorn Road and Ashburn Road ~~starting~~ from the church property to the parking lot property. The off-site sidewalk is to be located along Shellhorn Road on the Property (PIN# 119-40-7527) between the Church parcel (PIN# 119-40-8807) and the Parking Lot parcel (PIN# 119-40-6445) shall be located either within leased space, a private access easement or dedicated right-of-way. ~~If the applicant is to lose the contract for leased space prior to the dedication of right-of-way or a private access easement, the applicant shall provide a shuttle service from the commuter parking lot to the church site.~~ No church patron shall walk on Shellhorn Road from the parking lot to the church site.
5. Grave Disturbance – ~~The Applicant shall accurately map all graves identified by Thunderbird Archeology in 2001 on all future submissions of plans and profiles to the County. Following~~ During the removal of the Davis Building and prior to any ground disturbance, the area under and immediately around the Davis Building shall be the subject of archaeological investigation to identify additional 19th and early 20th century graves associated with the historic Ryan Methodist Church. Further, a professional archaeologist shall monitor the removal of the parking

area behind the Davis Building to the property line so that no graves will be impacted by the construction of the proposed church addition.

6. Stormwater Management – Stormwater management techniques and best management practices shall be employed to reduce the peak rate of runoff and reduce the volume of pollutants created by proposed impervious surfaces. Proposed facilities may include infiltration swales, bioretention basins with underdrains, or other low impact development techniques, where the first inch of storm runoff from proposed impervious surfaces is treated and contained by said techniques. ~~The applicant shall provide Stormwater Management Facilities in accordance with Section 3.14 of the Virginia Stormwater Management Handbook.~~ At the time of site plan approval, the Applicant shall consider providing an extended storm sewer connection at the option of the adjoining neighbors (PIN #119-40-8348 & PIN #119-40-8942) from the parking commuter parking lot site as shown on the Stormwater Exhibit dated June 23, 2009.
7. Specimen Tree – The applicant will retain a certified arborist to advise on protecting the 54-inch black oak noted on Sheet 2 of the Special Exception plat. Prior to site plan approval, the applicant will consult with the County Urban Forester on developing a plan to protect the tree's critical root zone during construction.
8. Energy Efficiency – At the time of Zoning Permitting for the expansion of the church use, the Applicant shall submit a details sheet demonstrating that all kitchen appliances and interior lighting have received an "Energy Star" label, as provided by the U.S. Department of Energy and U.S. Environmental Protection Agency's joint program referred to as the Energy Star program.
9. Lighting – Lighting on the both subject properties shall be designed and constructed as follows:
 - a. The maximum height of pole-mounted exterior lighting shall be 25 feet.
 - b. The Applicant shall submit for County review and approval during site plan review a details sheet demonstrating that all parking lot lighting has received an "Energy Star" label, as provided by the U.S. Department of Energy and U.S. Environmental Protection Agency's joint program referred to as the Energy Star program.
 - c. All exterior lighting shall be extinguished from 10:00 p.m. to 6:00 a.m., except on holidays or special event purposes, except for exterior lighting that is determined necessary for security purposes.
10. Park & Ride Lot – The Applicant shall provide signage for the park & ride lot in both directions of travel on Ashburn Road. The Applicant shall also provide the park and ride lot address to the OTS Transit Division for the purpose of providing

information to the public. The Applicant shall dedicate right-of-way of 35-feet from the centerline of Ashburn Road at the time of site plan. The Applicant shall provide all maintenance of the park & ride lot including, but not limited to, trash removal, snow removal, pavement maintenance, etc. The Applicant shall provide waste receptacles, ~~a call box~~ and access to a fire hydrant for the commuter parking lot.

11. Shellhorn Road – The Applicant shall reserve, for future dedication, 11-feet of right-of-way along Shellhorn Road. Prior to site plan approval, a Deed and Plat granting such reservation to the County shall be reviewed and approved by the County and recorded by the Applicant.
12. Bike Racks – Prior to approval of the first occupancy permit for ~~the church and~~ commuter lot uses, the Applicant shall install at least one bike rack ~~on the church property and at least one bike locker~~ on the commuter lot site which ~~each~~ accommodates at least ten bicycles. The location and type of bicycle racks ~~and lockers~~ used shall be consistent with the recommendations outlined in the Association of Pedestrian and Bicycle Professionals (APBP) “Bicycle Parking Guidelines”.
13. Construction Activity – Construction for the Proposed Uses shall only occur during normal business hours, Monday through Friday ~~8:00am – 5:00pm~~ 7:00am – 8:00pm. The Applicant shall protect the existing trees located within the side buffer yards and outside the proposed parking area from damage during construction (i.e. root trenching and safety fencing).

NOTE: The Applicant has agreed to provide a one-time fire and rescue contribution to the County in the amount of \$0.10 per square foot of non-residential floor area construction for equal distribution between the primary servicing fire and rescue companies. This contribution shall be made at the time of issuance of the first zoning permit for the church use. The contribution shall escalate annually, from January 1 of each year following County approval of the Special Exception Application, in accordance with the Consumer Price Index for all urban consumers (CPI-U), base year of 1988, as published by the Bureau of Labor Statistics, U.S. Department of Labor.

LEASE AGREEMENT

This LEASE AGREEMENT, made and entered into this 1st day of June, 2009, by and between West Church Road LLC, hereinafter referred to as the LESSOR, and Heritage Baptist Church, hereinafter referred to as the LESSEE.

WITNESSETH

That for and in consideration of the rent hereinafter reserved and the covenants herein contained, the LESSOR leases unto the LESSEE a portion of the 1.34 acre lot, County Pin # 119-40-7527-000, immediately contiguous to 21700 Shellhorn Road, Ashburn, Virginia, 20147, for the purpose of access to 21700 Shellhorn Road, for the sum of \$1200.00, (TWELVE HUNDRED and 00/100 DOLLARS) for ONE YEAR. Beginning with the 1st day of June, 2009, and ending on the 31st day of May, 2010, payable in advance at the rate of \$100.00 per month, and continuing at that rate each and every month through May 31st, 2010.

The monthly rent shall be payable to West Church Road LLC, 1510 South Glebe Road, Montross, Virginia 22520-4115, or to agents or assigns as may be later designated in writing to the LESSEE. All rents are due and payable on the 1st day of each month.

1. It is understood and agreed that the LESSEE take and hold said premises as LESSEE for the term indicated and subject to the conditions herein provided, at the rent stated, and the said LESSEE will, without previous demand, pay the rent specified at the time, place and in the manner herein provided.

2. **SUB-LEASE OR ASSIGNMENT:** It is further understood and agreed that the LESSEE will not assign nor sub-let any portion of the term of this lease, without the written consent of the LESSOR, which consent shall not be unreasonably withheld.

3. **INDEMNIFICATION WAIVER, AND INSURANCE:** It is further understood and agreed that the LESSOR or his agents shall not be liable for injury to persons or damage to personal property, nor with the interference with regular services of said business caused by the elements, accidents, repairs, riots, strikes, or any cause whatsoever, and the LESSEE agrees to carry the necessary liability insurance to save LESSOR harmless from any liability that may arise therefrom, or from any cause whatsoever. LESSEE agrees to carry a minimum of \$500,000.00 of liability insurance, with West Church Road LLC added as protectee, with a copy being furnished to LESSOR upon the signing of this lease agreement.

4. USE OF THE PREMISES: It is further understood and agreed that the LESSEE shall not use the lot for other than simple access to their place of worship without the express permission of the LESSOR. LESSEE may, at their effort and expense, install a paved, asphalt, or cement walkway upon leased premises to facilitate the passage of their parishioners, which must comply with Loudoun County Regulation.

5. PERSONAL PROPERTY: It is further understood and agreed that all goods and personal property of every kind, upon the said leased premises shall be at the sole risk and hazard of the LESSEE, or those claiming by, through or under them, or the owner thereof.

6. EMINENT DOMAIN: It is further understood and agreed that if the whole or any part of the leased premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, then in that event, the term of this lease shall cease and terminate from the date when the possession of the part so taken shall be required for such use or purpose.

7. SECURITY DEPOSIT: Waived

8. DANGEROUS OR ABNORMAL USES: Tenant shall not carry or permit to be carried any stocks or goods or do anything or permit anything to be done, in or about the premises, that will in any way impair or invalidate the obligation of any insurance policy with respect to the premises on which the leased space is located.

9. GROUNDS MAINTENANCE: Shall be solely LESSEES' responsibility on leased premises.

10. SNOW REMOVAL: Shall be solely LESSEES' responsibility on leased premises.

11. EXPIRATION OF LEASE: It is further understood and agreed that the LESSEE will at the end of his tenancy, surrender the said leased premises, in substantial condition and good repair, clean and in proper sanitary condition, and Acts of God, ordinary wear and tear and loss or damage by fire or other unavoidable casualty excepted.

This AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

WITNESS OUR SIGNATURES AND SEALS:

DATE: June 1, 2009 LESSOR, _____ (SEAL)

Michael Cherok

DATE: June 1, 2009 LESSEE, _____ (SEAL)

Heritage Baptist Church